IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

THE UNITED STATES OF AMERICA, Plaintiff, v. H. C. ANGLE, et al., Defendants.	Civil No. S-80-583-LKK [In Equity No. 30] ORDER DENYING PLAINTIFF'S MOTION TO AMEND ANGLE DECREE AND GRANTING DEFENDANT'S COUNTER-MOTION TO RESTRUCTURE THE ANGLE DECREE [PROPOSED]

This matter is before the Court on the motion filed by the plaintiff, United States of America on behalf of the U.S. Bureau of Reclamation (Reclamation) to change the place of use of certain decreed water rights as set forth in the Angle Decree entered by the honorable Frank H. Kerrigan of this Court on January 13, 1930, and to amend the Angle Decree accordingly. The motion also seeks to establish a Court-approved process for future annexations of land to Reclamation's federal Orland Project and changes in the place of use governed by the Angle Decree.

Defendant Michael J. Barkley filed an opposition to plaintiff's motion and filed his own counter motion to restructure the decree and the water rights of the watershed.

The Court, having reviewed both motions and supporting documentation, the responses filed to those motions, and as much of the voluminous record before the Court in this matter as practicable, finds that good cause exists to DENY plaintiff's motion and GRANT defendant Michael J. Barkley's

counter-motion. Accordingly,

IT IS HEREBY ORDERED THAT ,

1) Plaintiff's motion is DENIED,

2) The State of California is rejoined as a defendant inasmuch as their settlement has been lost and their obligations are unclear,

3) The Angle Decree is set aside in its entirety,

4) State impediments to the development and maintenance of water storage facilities such as stock ponds within the Stony Creek watershed upstream from Black Butte are suspended,

5) All appropriations within the Stony Creek watershed downstream from Black Butte are set aside,

6) Reclamation is ordered to:

a) assess which lands in the Stony Creek watershed upstream from Black Butte might benefit from irrigation, including by sprinkler or drip irrigation, and how much water per year would be required for such irrigation and set that aside as an annual reserve

b) draft a plan that will ensure no downstream users or appropriators will encroach on such portions of that upstream annual reserve as are actually used in any given year, and then reallocate the downstream appropriations, and coordinate the plan with and advocate the plan with the various interested State of California agencies

c) develop the Stony Creek Aquifer to offset any deficiency in supply that the upstream annual reserve might cause any of the current downstream users, as well as to fund all that which is ordered here, and sell the surplus as it chooses,

d) bring these plans back before the Court, and upon approval, implement the plans,

e) develop or improve physical works to deliver the water to those upstream lands at Plaintiff's cost,

f) evaluate the impairment in value caused irrigable upstream acreages over the decades since the decree, including annual crop impairments, and including lands taken by the Black Butte Dam project, compute the accumulated total per parcel including compound interest, and pay those sums to

such heirs as can be found,

g) encourage the establishment of and fund the creation of an Upper Stony Creek Watershed Authority encompassing all lands and irrigation districts and water users within the Stony Creek Watershed above Black Butte to perform all the appropriate duties of such an authority

h) establish a $50,000,000 redevelopment fund for Elk Creek, Stonyford, and Grindstone Rancheria, ignoring Newville which has disappeared as a community, such fund to be administered cooperatively by the Boards of Supervisors of Glenn and Colusa Counties as they see fit.

SO ORDERED this ____ day of _____, 2008.

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HONORABLE LAWRENCE K. KARLTON
SENIOR UNITED STATES DISTRICT JUDGE

Presented by:

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